

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

WILLIE R. NELSON
TX-1334802-L

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DOCKETED COMPLAINT NO.
06-080

FINAL ORDER

On this 12th day of December, 2008, the Board considered the above-noted matter.

After proper notice was given, the above case was heard by an Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH). The ALJ made and filed a proposal for decision containing findings of fact and conclusions of law. The proposal for decision was properly served on all parties, who were given an opportunity to file exceptions and replies as part of the administrative record. No such exceptions or replies were filed.

The Texas Appraiser Licensing and Certification Board, after review and due consideration of the proposal for decision, attached as Exhibit A hereto, adopts the findings of fact and conclusions of law of the ALJ contained in the proposal for decision and incorporates those findings of fact and conclusions of law into this Final Order as if such were fully set out and separately stated in this Final Order. All proposed findings of fact and conclusions of law submitted by any party that are not specifically adopted in this Final Order are denied.

NOW, THEREFORE, IT IS ORDERED by the Texas Appraiser Licensing and Certification Board that the certification of Willie R. Nelson in this matter is hereby **REVOKED**, effective twenty days after the date Willie R. Nelson is notified of this Final Order. Willie R. Nelson shall not be entitled to apply for reinstatement in accordance with TEX. OCC. CODE § 1103.522 until 5 years have elapsed from the effective date of this Order.

If enforcement of this Final Order is restrained or enjoined by an order of a court, this order shall become effective upon a final determination by said court or appellate court in favor of the Texas Appraiser Licensing and Certification Board.

Approved by the Board and Signed this 12th day of December, 2008.



Clinton P. Sayers, Chairperson
Texas Appraiser Licensing and Certification Board

State Office of Administrative Hearings

RECEIVED
TEXAS REAL ESTATE COMMISSION

OCT 02 2008

CASHIER'S SECTION
OPERATOR 15



Cathleen Parsley
Chief Administrative Law Judge

September 30, 2008

Tim Irvin
Executive Director
Texas Appraiser Licensing and Certification Board
1101 Camino La Costa
Austin, Texas 78752

HAND DELIVERY

RE: Docket No. 329-08-3675; Willie R. Nelson

Dear Mr. Irvin:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.59(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Ami L. Larson", followed by a long horizontal line.

Ami L. Larson
Administrative Law Judge

ALL/ds
Enclosure

xc: Troy Beaulieu, Attorney, Texas Appraiser Licensing and Certification Board, 1101 Camino La Costa, Austin, TX 78752 - **VIA HAND DELIVERY**
Sadiyah A. Evangelista, Attorney, P.O. Box 1092, Houston, TX 77251 - **VIA REGULAR MAIL**

SOAH DOCKET NO. 329-08-3675

**TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD,**

Petitioner

v.

WILLIE R. NELSON,

Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Texas Appraiser Licensing and Certification Board (Staff/Board) brought this action seeking to revoke the real estate appraiser license held by Willie R. Nelson (Respondent). The basis for this action was Respondent's alleged failure to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) in violation of TEX. OCC. CODE ANN. (CODE) § 1103.405 and 22 TEX. ADMIN. CODE ANN. (TAC) §§ 153.20(a)(3), and (9), and 155.1(a).

The hearing on the merits was convened on August 5, 2008. Respondent failed to appear at the hearing.¹ Staff moved for default and offered evidence to establish proper notice and jurisdiction and to support its requested sanction. The Administrative Law Judge (ALJ) granted Staff's motion for default.² Staff's allegations were accepted as true, establishing the alleged violations. The Administrative Law Judge (ALJ) agrees with Staff's recommendation that Respondent's license be revoked.

I. FINDINGS OF FACT

1. Willie R. Nelson (Respondent) holds Texas real estate appraiser license number TX-1334802-L issued by the Texas Appraiser Licensing and Certification Board (Board).

¹ Attorney Sadiyah A. Evangelista apparently represented Respondent at the time of the hearing. Ms. Evangelista, however, did not file any notice of appearance or appear at the hearing.

² Respondent's attorney filed a Motion to Vacate the default, which was denied by the ALJ on August 20, 2008, in Order No. 1.

2. Respondent's last known address of record on file with the Board is 2855 Mangum Road, Suite 501, Houston, Texas 77092.
3. Respondent performed appraisal services concerning the property located at 1432 West 21st Street, Unit B, Houston, Texas, 77008 (21st Street property).
4. Respondent inaccurately described the 21st Street property as a single family detached residence and failed to analyze and report that it was a town home style property.
5. Respondent's inaccurate description of the 21st Street property misled the user of the report about the nature of the property's improvements.
6. Respondent inconsistently reported the bedroom count for the 21st Street property.
7. Respondent reported square footage measurements for the 21st Street property that were significantly larger than the actual property size.
8. Respondent failed to use an appropriate method or technique to develop an opinion of the site value of the 21st Street property.
9. Respondent failed to collect, verify, analyze, and reconcile the cost of improvements because he inflated the cost per square foot and used a figure higher than that derived from industry-recognized cost manuals and other information sources.
10. Respondent failed to employ recognized methods and techniques in his cost approach analysis of the 21st Street property.
11. Respondent failed to analyze and report the agreement of sale or include it in his work file regarding the 21st Street property.
12. Respondent erroneously reported the owner of record for the 21st Street property.
13. Respondent failed to analyze in his report of the 21st Street property, a sale of that property, which had occurred two months before Respondent's appraisal, and was for a price significantly lower than the market value determination made in Respondent's report.
14. Respondent failed to collect, verify, analyze, and reconcile comparable sales adequately.
15. Respondent inappropriately relied on sales from outside the 21st Street property neighborhood despite the availability of more appropriate sales of similar town home-style residences in the same area as the 21st Street property.

16. Respondent failed to report and adjust for seller concessions for two of the comparable properties he used in his appraisal of the 21st Street property.
17. Respondent failed to correctly employ recognized methods and techniques in his sales comparison approach regarding the 21st Street property.
18. Respondent communicated assignment results for the 21st Street property in a misleading and fraudulent manner.
19. By failing to use correct methods and techniques, Respondent produced a misleading appraisal report for the 21st Street property that included several errors of commission or omission and resulted in an inflated appraisal that was not credible or reliable.
20. On June 27, 2008, staff of the Board (Staff) sent its Original Statement of Charges and Request to Docket Case to Respondent at his last known address reflected in Board records.
21. On July 2, 2008, Staff sent its Notice of Hearing to Respondent by certified mail.
22. The notice was received at that address and the return receipt was signed by Kenneth Smith upon delivery.
23. The Notice of Hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short plain statement of the matters asserted.
24. The Notice of Hearing stated, in at least 12-point, bold-faced font, that "failure to appear at the hearing will result in the original statement of charges being admitted as true, the relief sought by [the Board] granted, and a default judgment being taken against you."
25. The hearing on the merits was convened on August 5, 2008, at 9:00 a.m. in a fourth floor hearing room of the State Office of Administrative Hearings, William P. Clements Office Building, 300 West 15th Street, Austin, Texas.
26. Staff appeared at the hearing through attorney, Troy Beaulieu. Neither Respondent nor counsel for Respondent appeared at the hearing or filed a motion for continuance of the hearing..
27. Staff made a motion for default, which was granted following the admission of evidence establishing proper jurisdiction and notice.

28. On August 12, 2008, Respondent's attorney filed a written Motion to Set Aside Default and acknowledged that she was aware of the hearing date, time and place at least ten days prior to the hearing
29. On August 19, 2008, Staff filed a written opposition to Respondent's Motion to Set Aside Default.
30. On August 20, 2008, The Administrative Law Judge issued Order No. 1, denying Respondent's Motion to Vacate Default.
31. Pursuant to default, the allegations in Staff's Notice of Hearing were deemed true.
32. Respondent intentionally misled the parties regarding the value of the 21st Street property.

II. CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board (Board) has jurisdiction over this matter pursuant to TEX. OCC. CODE ANN. (Code) ch. 1103.
2. The State Office of Administrative Hearings has jurisdiction over the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.
3. Staff provided proper notice of the hearing to Respondent. TEX. GOV'T CODE ANN. chs. 2001 and 2003.
4. Petitioner had the burden of proving the case by a preponderance of the evidence. 1 TAC § 155.41(b).
5. The Board's rules require that appraisals must conform to the Uniform Standards of Professional Appraisal Practice (USPAP) developed and published by the Appraisal Foundation and in effect at the time. 22 TEX. ADMIN. CODE (TAC) § 155.1(a).
6. Based on the above Findings of Fact, Respondent committed multiple willful violations of USPAP with respect to his appraisal and corresponding report for the property located at 1432 West 21st Street, Unit B, Houston, Texas 77008.
7. The Board is authorized to revoke Respondent's license for violation of the Board's rules or the USPAP standards. Code § 1103.518 and 22 TAC § 153.20(a)(2) and (3).

8. Based on the above Findings of Fact and Conclusions of Law, Respondent's Texas real estate appraiser license should be revoked. 22 TAC § 153.24(h).

SIGNED September 30, 2008.

A handwritten signature in black ink, appearing to read 'Ami L. Larson', is written over a horizontal line.

**AMI L. LARSON
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**